IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO. 719 OF 2002

Bharat Hosiery Mills .. Plaintiffs

versus

Anupam Textiles .. Defendants

...

Mr.T.M. Nadar for the plaintiff.

CORAM : D.G. KARNIK,J.

DATED : 14th March 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None for the defendant.

2. Perused the affidavit of service and the service report dated 7th March 2005 by the Section Officer, Board Department. Despite service of writ of summons, the defendant has not filed an appearance. The plaintiff is entitled to a decree under Order 37 Rule 2(3) of the Code of Civil Procedure.

3. The plaintiff has filed on record the original documents along with a list. Perused the documents and the plaint. The plaintiff sold supplied and delivered to the defendant goods and issued four invoices. The defendant made part payments, however failed and neglected to pay the balance amount due. The plaintiff issued notice to the defendant on 10th December 2001. However, the defendant failed and neglected to make the payment. The plaintiff has not claimed any interest prior to the date of the suit. Hence, plaintiff is entitled to a decree with full sum claimed with future interest u/s.34 of the Code of Civil Procedure. Since the transaction arises out of a commercial transaction and no interest has been claimed prior to the suit, I am inclined to award interest at 12% p.a. Hence, I pass the following order:-

4. The defendant shall pay to the plaintiff a sum of Rs.57,624.84 together with interest thereon at 12% p.a. from the date of the suit till payment and all costs of the suit.

5. Issue court fee refund certificate as per rules.

D.G. KARNIK, J